UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT M. CIFONELLI,

Plaintiff,

-against-

ANSWER
Civil Case No.: 6:11-cv-1062 (MAD/ATB)
Jury Trial Demanded

NEW YORK STATE TECHNOLOGY ENTERPRISE CORPORATION; EMPLOYEE NETWORK, INC. d/b/a "eni"; and JOHN DOE(S) and JANE DOE(S),

Defendant.

As and for an answer to the plaintiff's Complaint, the defendant, New York State Technology Enterprise Corporation, (hereinafter "answering defendant"), through counsel, alleges the following upon information and belief:

1. Answering defendant denies the allegations of paragraph "1" of the Complaint for want of knowledge and information sufficient to form a belief as to the truth thereof, but admits plaintiff was an employee of New York State Technology Enterprise Corporation from May 26, 1998 to January 25, 2010.

2. Answering defendant admits the allegations of paragraph "2" of the Complaint, but reserves all questions of law, including whether NYSTEC was the "employer" for purposes of the statutes at issue, for the Court.

3. Answering defendant denies the allegations set forth at paragraph "3" of the plaintiff's Complaint and refers all questions of law to the Court.

4. Answering defendant denies the allegations of paragraph "4" of the Complaint for want of knowledge and information sufficient to form a belief as to the truth thereof.

5. Answering defendant denies the allegations of paragraph "5" of the Complaint, but admits that the plaintiff was employed by New York State Technology Enterprise Corporation for approximately 12 years.

6. Answering defendant denies the allegations of paragraph "6" of the Complaint.

7. Answering defendant denies the allegations of paragraph "7" of the Complaint.

8. Answering defendant denies the allegations of paragraph "8" of the Complaint.

9. Answering defendant denies the allegations of paragraph "9" of the Complaint.

10. Answering defendant denies the allegations of paragraph "10" of the Complaint.

11. Answering defendant denies the allegations of paragraph "11" of the Complaint and refers all questions of law to the Court.

12. Answering defendant denies the allegations of paragraph "12" of the Complaint.

13. Answering defendant admits the allegations of paragraph "13" of the Complaint.

14. Answering defendant admits the allegations of paragraph "14" of the Complaint.

15. Answering defendant denies the allegations set forth at paragraph "15" of the plaintiff's complaint and refers all questions of law to the Court.

16. In response to paragraph "16 " of the Complaint, answering defendant repeats and realleges as if fully set forth herein paragraphs "1" through "15" of this Answer.

17. Answering defendant denies the allegations of paragraph "17" of the Complaint.

18. Answering defendant denies the allegations of paragraph "18" of the Complaint.

19. In response to paragraph "19" of the Complaint, answering defendant repeats and realleges as if fully set forth herein paragraphs "1" through "18" of this Answer.

20. Answering defendant denies the allegations of paragraph "20" of the Complaint.

21. Answering defendant denies the allegations of paragraph "21" of the Complaint.

22. In response to paragraph "22" of the Complaint, answering defendant repeats and realleges as if fully set forth herein paragraphs "1" through "21" of this Answer.

23. Answering defendant denies the allegations of paragraph "23" of the Complaint for want of knowledge and information sufficient to form a belief as to the truth thereof and refers all questions of law to the Court.

24. Answering defendant denies the allegations of paragraph "24" of the Complaint for want of knowledge and information sufficient to form a belief as to the truth thereof.

25. In response to paragraph "25" of the Complaint, answering defendant repeats and realleges as if fully set forth herein paragraphs "1" through "24" of this Answer.

26. Answering defendant denies the allegations of paragraph "26" of the Complaint for want of knowledge and information sufficient to form a belief as to the truth thereof.

27. Answering defendant denies the allegations of paragraph "26" of the Complaint for want of knowledge and information sufficient to form a belief as to the truth thereof.

28. Answering defendant denies the allegations of paragraph "28" of the Complaint for want of knowledge and information sufficient to form a belief as to the truth thereof.

29. Answering defendant denies the allegations of paragraph "29" of the Complaint for want of knowledge and information sufficient to form a belief as to the truth thereof.

30. Answering defendant denies the allegations of paragraph "30" of the Complaint for want of knowledge and information sufficient to form a belief as to the truth thereof.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

31. Whatever injuries plaintiff may have sustained were caused in whole or in part, or were contributed to, by the culpable conduct and/or want of care on the part of the plaintiff or by someone over whom answering defendant had no control.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

32. The claims and causes of action set forth in the Complaint are barred by the applicable statute of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

33. The Complaint fails to state a cause of action or claim upon which relief may be granted.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

34. Plaintiff has failed to mitigate his damages.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

35. The plaintiff was not a qualified employee pursuant to the Americans with Disabilities Act, 42 USC §1211(8), as he was unable to, with or without reasonable accommodation, perform the essential functions of the employment position.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

36. The answering defendant had a legitimate, nondiscriminatory reason for terminating the plaintiff.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

37. Continuing the plaintiff's employment would have caused an undue hardship, pursuant to the Americans with Disabilities Act (42 USC §12111(10)) on the answering defendant.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

38. The plaintiff did not have a disability within the meaning of the Americans with Disabilities Act (42 USC §12101 et. seq.).

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

39. The plaintiff did not have a disability within the meaning of New York Executive Law §292(21).

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

40. Continuing the plaintiff's employment would have caused undue hardship, pursuant to New York Executive Law §292(21-e), on the answering defendant.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

41. The plaintiff is not entitled to a jury trial on issues regarding the equitable relief sought in the Complaint.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

42. The plaintiff failed to provide notice of his alleged disability and refused to provide medical documentation of his alleged condition.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

43. The plaintiff failed and refused to provide information to the employer which would enable them to access the need for and extent of the requested accommodation.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

44. The plaintiff failed to mitigate his alleged medical disability.

WHEREFORE, the answering defendant demands judgment dismissing the Complaint herein with costs.

DATED: September 27, 2011

CARTER, CONBOY, CASE, BLACKMORE,
MALONEY & LAIRD, P.C.

By:________________________
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